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GOVERNOR

STATE OF MAINE
DEPARTMENT OF CONSERVATION
LAND USE PLANNING COMMISSION
PO BOX 1107
GREENVILLE, MAINE
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WALTER E. WHITCOMB
COMMISSIONER

PERMIT

DEVELOPMENT PERMIT DP 4958 RECREATIONAL LODGING FACILITY BY SPECIAL EXCEPTION

The staff of the Maine Land Use Planning Commission, after reviewing the application and supporting documents submitted by Woody's Guide Service for Development Permit DP 4958, finds the following facts:

1. Applicant: Woody's Guide Service
Attn: Daniel and Nancy Wood
PO Box 475
Sabattus, ME 04280
3. Date of Completed Application: November 21, 2014
4. Location of Proposal: Mayfield Township, Somerset County
Plan 01, Lot 20.3
5. Zoning: (M-GN) General Development Subdistrict
(P-SL2) Shoreland Protection Subdistrict
6. Lot Size: 20.8 Acres (Owned); plus abutting 2 acres (Purchase and Sales Agreement)
7. Principal Buildings (Footprints / Floor Area):
Existing 2 story Main Lodge/Dining Hall w/Porches
(32 ft. by 48 ft. by less than 30 ft.; 2,496 sq. ft. floor area)
Proposed Additional Recreation Hall w/Porches
(30 ft. by 50 ft. by less than 30 ft.; 1,963 sq. ft. floor area)
8. Accessory Structures (Footprints / Floor Area):
Existing Shed (12 ft. by 14 ft. by +/- 14 ft.)
Proposed Generator Shed (12 ft. by 16 ft. by +/- 14 ft.)
9. Campsites: Proposed 12 Recreational Vehicle / Camper Trailer Campsites
10. Sewage Disposal:
Existing Combined Sewage Disposal System

NICHOLAS D. LIVESAY, EXECUTIVE DIRECTOR

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Background

11. The applicant converted a bunk house approved pursuant to Building Permit BP 13192 into a lodging facility for their hunting and fishing guiding business without authorization from the Commission (EC 14-46). The applicant's 20.8 acre lot (Plan 01, Lot 20.03), which includes the unauthorized converted bunk house, was transferred to the applicant on February 12, 2014. The applicant's lot is now separate and distinct from the approximate 1 acre waterfront lot (Plan 04, Lot 53), which is developed with residential structures still subject to the terms and conditions of Building Permit BP 13192, and its subsequent amendments. The applicant's lot is a wooded back lot located approximately 387 feet from the normal high water mark of Mayfield Pond.
12. The applicant's lodging facility was designed to accommodate approximately 12 guests. The facility has plumbing for bathrooms, showers and a kitchen area. The kitchen area is being used to provide dining amenities for guests to Woody's Guide Service. The lodging facility is located approximately 450 feet from Mayfield Pond and approximately 600 feet from Route 16. Based on the information submitted and field verified by staff from the LUPC, the limit of clearing for the facility is less than 10,000 square feet. The facility is buffered from view by mature forested vegetation from both Mayfield Pond and Route 16.
13. On September 16, 2014, the applicant purchased approximately 2 acres from the abutting land owner to create an area wide enough to relocate the existing access road so it would be at least 75 feet from the lodge and parking area.
14. The applicant's lot is located within General Management Subdistrict (M-GN), which is within a Geographic Allowance Area that allows the Commission to consider expanded access adjustments for Level C and Level D Recreational Lodging Facilities by Special Exception. A small stream flows through the applicant's lot and that area is identified as a Shoreland Protection Subdistrict (P-SL2). With the exception of a future water crossing, there is no proposed development within the P-SL2 Subdistrict.

Proposal

15. The applicant requests after-the-fact approval for the unauthorized conversion of the bunk house (BP 13192) to the existing on-going use as a recreational lodging facility for Woody's Guide Service. Specifically, the applicant requests after-the-fact approval for: a) the existing two story main lodge/dining hall w/porches (32 ft. by 48 ft. by less than 30 ft. tall; with 2,496 sq. ft. floor area), b) a storage shed (12 ft. by 14 ft. by +/- 14 ft.), c) a 30' by 50' gravel parking area, and d) relocation of the access road.
16. The applicant proposes to construct: a) a 12 ft. by 16 ft. generator shed, b) an approximately 30 ft. by 50 ft. by less than 30 ft. tall 2 story structure with approximately 1,963 sq. ft. of floor area to create a vaulted ceiling recreational hall with 2 additional bedrooms on a loft type partial second floor, c) an approximately 64 square foot sign on Route 16 adjacent to their access road entrance, and d) 12 camping sites for recreational camper trailers / vehicles, which would be staked and field verified to avoid the P-SL2 Subdistrict.
17. The applicant proposes to offer on-site recreational activities such as horse shoes and activities associated with their guide service.
18. The applicant proposes to offer fuel sales to their guests and to the public for snowmobiles and ATVs.
19. The applicant proposes to offer dining amenities to their guests and to the public.

20. The total floor area for the existing and proposed principal structures is approximately 4,459 square feet.
21. The applicant requests the Commission to categorize the facility as a Level C Expanded Access Recreational Lodging Facility.

Review Criteria

22. Under the provisions of Section 10.02 #168 of the Commission's Land Use Districts and Standards, **Recreational Lodging Facilities** are defined as: Site improvements, a building or group of buildings, or any part thereof, used, maintained, advertised or held out to the public as a place where sleeping accommodations are furnished to the public for commercial purposes. Recreational lodging facilities primarily cater to recreational users who engage in recreation activities that are primarily natural resource-based. The term includes, but is not limited to, commercial sporting camps, youth or group camps, back-country huts, rental cabins, outpost cabins, campgrounds, lodges, hotels, motels, inns, or any combination of these types of uses that exhibit characteristics of a unified approach, method or effect such as unified ownership, management or supervision, or common financing. To be included in a recreational lodging facility, rental units must be served by an on-site attendant while guests are present. Related development that is located more than one half mile, measured in a straight line, from the nearest structure providing guest services, such as dining, gathering places, retail shower house, dumping station, check-in office, and equipment rental shall be considered a separate facility, unless the owner chooses to consider them as one facility. Caretaker or attendant housing will not be used to establish the one half mile distance unless no other guest services are provided. If no guest services are provided then all development on the regulatory parcel shall be considered part of the same facility and may be part of a facility on an adjoining parcel. For the purposes of Land Use Planning Commission rules, recreational lodging facilities are divided into five levels: [Levels A through E] ...

Level C Facilities with Expanded Access have some impacts on existing resources within the development site and surrounding areas. Level C Expanded Access Facilities are specifically designated by Section 10.27,Q,1.

23. Under provisions of 10.27,Q,1, Tables A and B, of the Commission's Land Use Districts and Standards, Recreational Lodging Facilities Level C Expanded Access Facilities may contain the following:
 - On-site recreation activities, features, and/or services that produce low noise and odor and are mostly screened (as defined at 10.02,167);
 - Public utilities and indoor plumbing;
 - Up to 12,000 sq. ft. of principal buildings;
 - Up to 36,000 sq. ft. of clearing within 250 of certain waters;
 - Up to 200 sq. ft. of retail or not more than 10% of floor area of principal buildings, whichever is larger;
 - Dining; fuel sales; and recreation activities, features, and services which are available to the general public; and
 - Overnight occupancy for up to 300 persons.
24. Under provisions of Section 10.22,A,d,(3) of the Commission's Land Use Districts and Standards Recreational Lodging Facilities Level C Expanded Access may be allowed in a (M-GN) General Management Subdistrict by Special Exception upon issuance of a permit from the Commission.

Development Subdistrict by Special Exception upon issuance of a permit from the Commission. The special exception criteria for such a facility are:

- a) The use can be buffered from those other uses within the subdistrict with which it is incompatible;
- b) Such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan;
- c) That there is sufficient infrastructure to accommodate the additional traffic and activity generated by the facility; and
- d) That surrounding resources and uses that may be sensitive to such increased traffic and activity are adequately protected.

- 25. Under provisions of Section 10.26,D,1&2 of the Commission's Land Use Districts and Standards, all those structures within the recreational lodging facility constructed solely for the housing of guests must be set back a minimum of at least 50 feet from the traveled portion of all roadways and at least 15 feet from side and rear property lines. All other structures within the recreational lodging facility must be set back a minimum of at least 75 feet from the traveled portion of all roadways and at least 25 feet from side and rear property lines.
- 26. Under provisions of Section 10.26,F,2 of the Commission's Land Use Districts and Standards, structures within 500 feet of the normal high water mark of a body of standing water 10 acres or greater shall be no higher than 30 feet.
- 27. Under provisions of Section 10.27,Q of the Commission's Land Use Districts and Standards, All new recreational lodging facilities or substantial improvements to existing recreational lodging facilities, must be developed in conformance with the standards of this section or in accordance with other applicable provisions of this Chapter. If the requirements in the standards below are at variance with the requirements of any other provisions of this Chapter, or other lawfully adopted rules, regulations, standards, or ordinances, the more protective of existing natural, recreational and historic resources shall apply.

The facts are otherwise as represented in the application for Development Permit DP 4958, and supporting documents.

Analysis and Discussion

- 28. The total gross floor area of principle buildings, as estimated by the applicant, will be less than 12,000 square feet after completion of the proposed construction and change of use. The applicant states the facility will offer on-site recreation activities or services that generate low noise and are mostly screened. The applicant also proposes to offer, on a routine basis, services to the public, specifically dining; fuel sales; and recreation activities, features and services. The offering of these services to the public, in addition to guests, classifies the facility as a Level C Expanded Access Recreational Lodging Facility. Section 10.27,Q, Tables A and B. This level Recreational Lodging Facility is allowed by special exception in the M-GN subdistrict. Section 10.22,A,d,(3) .

29. As noted in Finding #28, the applicant plans to offer certain services to the public, in addition to guests. A substantial portion of the public sales and services are expected to be to the snowmobiling and ATV riding public, who travel on the trail system that extends through this area. Additional sales and services would also be offered to the hunting and fishing public that recreate in this area. The use by snowmobilers and ATV riders is supported by an extensive trail system. A facility classified as a Level C Expanded Access Recreational Lodging Facility may offer for sale to the public up to two fuel types, with one pump per type, and may have an overnight occupancy of up to 300 individuals. The applicant proposes to install a gasoline fuel pump capable of serving a single vehicle at a time that it plans to use to serve the public. The applicant's facility presently accommodates 12 overnight guests. The proposed additional lodging facility and the proposed 12 campsites for recreational vehicles would increase the total occupancy to up to 45 overnight guests. The applicant does not propose public sales of additional fuels at this time. The Commission has not evaluated the potential impact of expanded fuel sales beyond the proposed sale of gasoline from a single pump nor occupancy above that proposed. Based on the Commission's evaluation of surrounding recreation features (notably the snowmobile and ATV trail system) and the proximity to hunting and fishing areas, the location of the applicant's facility is suitable for a Level C Expanded Access Recreational Lodging Facility, provided the applicant operates the facility in accordance with Conditions #1 and #2.

Based upon the above Findings, the staff concludes that:

1. The proposal will meet the definition of a recreational lodging facility under the provisions of Section 10.02 of the Commission's Standards because the site and facility will:
 - a) be used, maintained, advertised or held out to the public as a place where sleeping accommodations are furnished to the public for commercial purposes;
 - b) primarily cater to recreational users who engage in recreation activities that are primarily natural resource-based;
 - c) be served by an on-site attendant while guests are present; and
 - d) include or be similar to commercial sporting camps, youth or group camps, back-country huts, rental cabins, outpost cabins, campgrounds, lodges, hotels, motels, inns, or any combination of these types of uses that exhibit characteristics of a unified approach, method or effect such as unified ownership, management or supervision, or common financing.
2. In accordance with the provisions of Section 10.27,Q,1, Tables A and B, of the Commission's Standards, the site, including existing and proposed development constitutes a Level C Expanded Access Recreational Lodging Facility. Specifically, the after-the-fact change of use of the bunk house to a recreational lodging facility, the existing and proposed accessory structures, the proposed new recreational lodging structure and the proposed 12 recreational vehicle camp sites meet all applicable standards for construction and are consistent with Table A and B Facility Level Determination, factors for a Level C Expanded Access Facility. The total floor area for all principal buildings upon completion is approximately 4,459 square feet, which is less than the maximum 12,000 square feet allowed for a Level C Expanded Access Facility. The recreational activities offered would be

horseshoes and activities associated with the guide service for hunting and fishing. The total overnight occupancy would be approximately 45 people, less than the 300 maximum allowed in a Level C Expanded Access Facility.

3. The proposal will meet the special exception criteria of Section 10.21,C,3,d of the Commission's Land Use Districts and Standards Recreational Lodging Facilities Level C Expanded Access for the following reasons.

The facility has successfully operated in and is compatible with the area. The lodging facility is located approximately 450 feet from Mayfield Pond and approximately 600 feet from Route 16. The limit of clearing for the facility is less than 10,000 square feet. The facility is buffered from view by mature forested vegetation from both Mayfield Pond and Route 16. Therefore, the Commission concludes that the use can be buffered from those other uses within the subdistrict with which it is incompatible.

As discussed in Finding # 29, hunters, fishermen, snowmobilers and ATV riders are expected to be the largest segment of the public who will visit the facility as a result of dining, fuel and recreation activities/features/services being offered to the public. Added snowmobile and ATV traffic will not exceed the capacity of the trail system. Route 16 is a roadway with adequate capacity to handle any additional motor vehicle traffic generated by this facility.

Because the applicant is not proposing to develop the facility to the full extent of a Level C Expanded Access Recreational Lodging Facility, the Commission has not evaluated the potential impacts from expanded public fuel sales beyond a single gasoline pump or a substantial increase in overnight occupancy. Based on its evaluation and provided the applicant complies with Conditions #1 and #2, the Commission concludes that there is sufficient infrastructure to accommodate the additional traffic and activity generated by the facility, including snowmobiling and ATV riding, if it operates as a Level C Expanded Access facility, and that surrounding resources and uses that may be sensitive to such increased traffic and activity are adequately protected. As the applicant proposes to operate the facility it will comply with Conditions #1 and #2.

4. Based on the facts as presented and Chapter 10 Sections 10.11 and 10.26 of the Commission's Land Use Districts and Standards the current facility and proposal meets dimensional requirements.
5. If carried out in compliance with the Conditions below, the proposal will meet the Criteria for Approval, Section 685-B(4) of the Commission's Statutes, 12 M.R.S.A.

Therefore, the staff approves the application of Woody's Guide Service with the following conditions:

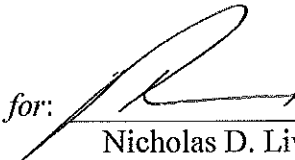
1. Notwithstanding the overnight occupancy limit stated in Section 10.27,Q,1, Tables A and B, of the Commission's Standards, the overnight occupancy limit of this facility shall be no more than 45 persons until such time as the applicant requests an increase and supplies supporting information that such a change will meet the criteria for the subdistrict designation in effect at the time. The Commission incorporates this condition not because it finds that an overnight occupancy capacity of greater than 45 would not satisfy the Commission's Standards, but rather because the Commission has not considered the potential impact of overnight occupancy greater than 45.

2. Notwithstanding the public fuel sales limit stated in Section 10.27,Q,1, Tables A and B, of the Commission's Standards, the facility shall be limited to one gas pump serving one vehicle at a time until such time as the applicant requests an increase and supplies supporting information that such a change will meet the criteria for the subdistrict designation in effect at the time. The Commission incorporates this condition not because it finds that operation of an additional pump for public fuel sales would not satisfy the Commission's Standards, but rather because the Commission has not considered the potential impact operation of a second pump to support expanded public sales.
3. Construction activities authorized in this permit must be substantially started within 2 years of the effective date of this permit and substantially completed within 5 years of the effective date of this permit. If such construction activities are not started and completed within this time limitation, this permit shall lapse and no activities shall then occur unless and until a new permit has been granted by the Commission.
4. All those structures within the recreational lodging facility constructed solely for the housing of guests must be set back a minimum of at least 50 feet from all roads and at least 15 feet from other property boundary lines. All other structures within the recreational lodging facility, must be set back a minimum of at least 75 feet from all roads and at least 25 feet from other property boundary lines.
5. The proposed shed and lodge shall not exceed 30 feet in height.
6. Prior to the commencement of any clearing, filling or grading for the proposed 12 recreational vehicle / camper trailer campsites and the vehicle access way to these campsites, the permittee shall stake / flag the proposed campsites and access way locations for field verification and approval by the Commission. With the exception of a possible water crossing for the access way through a P-SL2 Subdistrict, all other site work associated with the campsites shall be located in the M-GN Subdistrict.
7. Any future retail space shall not exceed 10% of floor area of principal buildings.
8. Construction debris must not be disposed of in a wetland. All construction debris must be removed from the site upon completion of reconstruction activities.
9. Clearing and construction activities, except those necessary to establish sedimentation control devices, shall not begin until all erosion and sedimentation control devices (including ditches, culverts, sediment traps, settling basins, hay bales, silt fences, etc.) have been installed and stabilized. Once in place, such devices shall be maintained to ensure proper functioning. All temporary sedimentation and erosion control devices shall be removed after construction activity has ceased and a cover of healthy vegetation has established itself or other appropriate permanent control measures have been effectively implemented. Permanent soil stabilization shall be completed within one week of inactivity or completion of construction.
10. Construction with heavy equipment shall occur during the time of year when roads and soils are reasonably stable and not saturated or frozen.
11. Once construction is complete, the permittee shall submit a self-certification form, notifying the Commission that all conditions of approval of this permit have been met. The permittee shall submit all information requested by the Commission demonstrating compliance with the terms of this permit.

12. All exterior lighting must be located and installed so as to illuminate only the target area to the extent possible. Exterior lighting must not produce a strong, dazzling light or reflection beyond lot lines onto neighboring properties, water bodies, or roadway so as to impair driver vision or to create nuisance conditions.
13. Exterior finishes of all structures shall be non-reflective and natural colors to blend with the natural surroundings and minimize any adverse visual impacts. The permittee may plant native vegetation to help visually screen the facility from the adjacent water body and surrounding lands.
14. The permittee shall secure and comply with all applicable licenses, permits, authorizations, and requirements of all federal, state, and local agencies including but not limited to: Subsurface Wastewater Disposal System approval from the Local Plumbing Inspector and/or Maine Department of Health and Human Services, Subsurface Wastewater Program; and the Maine Department of Transportation.

This permit is approved upon the proposal as set forth in the application and supporting documents, except as modified in the above stated conditions, and remains valid only if the permittee complies with all of these conditions. Any variation from the application or the conditions of approval is subject to prior Commission review and approval. Any variation undertaken without Commission approval constitutes a violation of Land Use Planning Commission law. In addition, any person aggrieved by this decision of the staff may, within 30 days, request that the Commission review the decision.

DONE AND DATED AT GREENVILLE, MAINE, THIS 21st DAY OF JANUARY, 2015.

for:  Roderick J. Falla
Nicholas D. Livesay, Executive Director